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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/205,119	12/03/1998	CHARLES A. ELDERING	8887-3004	8185

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EXPANSE NETWORKS, INC.
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DOYLESTOWN, PA 18901

EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/205,119

Applicant(s)

ELDERING ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-51, 53-65 and 67-73 is/are rejected.
- 7) ☒ Claim(s) 52 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 66 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "raw subscriber interactions" is not well understood, the specification does not define what a raw subscriber interaction is.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,796,952 to Davis in view of U.S. Patent 6,236,978 to Tuzhilin.

Regarding claims 42-49, 60-61 and 71-74, Davis discloses a user monitoring system which monitors a users interactions with a web page and advertising as well as a user's inactivity on the webpage via timer to account for a user reading the webpage, this information is stored in a database and builds a profile based upon subscriber

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interactions (column 8, lines 30-column 9, line 45, column 11, lines 13-33, column 12, line 51- column 13, line 18, lines 47-63). Davis does not disclose identifying traits about a user not directly related to subscriber interactions, and the use of heuristic rules to associate subscriber interactions and non-interactions to the subscriber's characteristics. Tuzhilin discloses a system which utilizes a number heuristic rules to create a dynamic consumer profile, which tracks user interactions and traits; the system then estimates a users future needs as well as which products a user is most likely to purchase, the rules are retrieved and generated in order to determine the dynamic profile (Figures 4 and 6, column 3, line 58-column 4, line 29, column 5, line 47-column 6, line 44, column 8, line 20-47, column 11, lines 42-66). Therefore it would have been obvious to one skilled in the art at the time of invention to modify Davis to utilize the rules and recommendation system of Tuzhilin in order to utilize the non interaction data of Davis to determine which advertisements or webpage a user has seen and read in order to more accurately create a user profile which is tailored to a user's interests.

Regarding claims 50 and 51, Tuzhilin discloses that the rules are and profiles are probabilistic (column 4, line 30-column 5, line 45).

Regarding claims 53 and 55, Tuzhilin discloses that the profile identifies demographic and product interest characteristics of a subscriber such as age or past purchasing history (column 3, lines 31-50).

Regarding claim 54, Tuzhilin discloses that the rules predict product interest characteristics about the subscriber (column 13, lines 38-column 14, line 14).

Regarding claim 62, Tuzhilin discloses that subscribers interactions are aggregated via their purchase history (column 13, line 38-column 14, line 14).

Regarding claims 63 and 64, Davis discloses aggregating subscriber interactions for single and multiple sessions to determine user interests (column 11, lines 13-33, column 12, lines 51-column 13, line 17).

Regarding claim 66, Davis discloses that both a users previous selections and selections from a current viewing session are monitored (column 8, lines 30-column 9, line 45, column 11, lines 13-33, column 12, line 51- column 13, line 18, lines 47-63).

Regarding claims 67 and 68, Davis discloses that the click through rate for advertising is monitored; this data is used to determine a subscribers interests (column 13, line 47-column 14, line 65).

Claims 56-59 and 69-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,796,952 to Davis in view of U.S. Patent 6,236,978 to Tuzhilin in further view of U.S. Patent 6,286,140 to Ivanyi.

Regarding claims 56-59 and 69-70, Davis and Tuzhilin disclose a subscriber monitoring system for web pages. The combined system of Davis and Tuzhilin do not disclose monitoring subscribers interactions with TV or tracking information regarding displayed programming. Ivanyi discloses monitoring channel changes and audio changes in a TV (column 7, lines 13-31) and retrieves data related to the programming or advertising (column 10- line 65-column 11, line 24). Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combined system

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of Davis and Tuzhilin to monitor subscriber reactions with a TV as taught by Ivanyi in order to accurately profile a subscriber based upon television viewing habits.

Allowable Subject Matter

Claims 52 and 66 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,460,036-B1 to Herz, System and Method for Providing Customized Electronic Newspapers and Target Advertisements.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HBL
November 1, 2002


HUNTER B. LONSBERRY
EXAMINER
TELEPHONE CENTER 2300